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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,063	12/08/2005	Aharon Hazut	7640-X05-045	9653
27317 7590 04/16/2008 FLETT KAIN GIBBONS GUTMAN BONGINI & BIANCO 21355 EAST DIXIE HIGHWAY SUITE 115 MIAMI, FL 33180				
EXAMINER				
NEAL, TIMOTHY J				
ART UNIT		PAPER NUMBER		
3731				
MAIL DATE		DELIVERY MODE		
04/16/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/560,063

Applicant(s)

HAZUT ET AL.

Examiner

Timothy J. Neal

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 14-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 14-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is in response to the amendments and Request for Continued Examination received on 01/18/2008.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8, 9, 14-18, and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malodobry (US 2004/0111107) in view of Ring et al. (US 4,588,400).

Malodobry discloses a method of removing pigments from the skin via a tissue-puncturing device (tattoo device) while injecting an aqueous solution into the pigmented area of skin (Paragraph 46). The needles are hollow or solid (Paragraph 43) with suction means. Malodobry also discloses the use of a saline solution to be introduced to the skin (Paragraph 52).

Malodobry does not disclose providing a pad capable of drawing the liberated pigments from a dermal layer of the skin and bandaging the skin, applying antiseptic or antibiotic materials, and wherein the pad is a solution, solid material, or a combination of the two. Ring teaches an absorbent pad used for dressing a wound including antiseptic and/or antibiotics (Example 7 and Col 8 Line 50). Therefore, it would have been

obvious to a person having ordinary skill in the art at the time the invention was made to modify Malodobry's removal method with Ring's absorbent pad. Removing the pad before damage or saturation occurs is also obvious. Such a modification would provide a means to absorb fluids exiting the wound including blood, ink, and other biological fluids. Antibiotics and antiseptics prevent the spread of infection. Obviously the pad will eventually be removed at some point. It should be removed before damage occurs to avoid patient discomfort. Also, the pad should be removed before saturation so that it can absorb more fluid. Doing this before complete saturation prevents over saturation and a general ineffectiveness of the pad.

The use of a pad capable of absorbing the claimed amount of debris is considered obvious to a person having ordinary skill in the art. A person having ordinary skill would be able to modify the pad to absorb the debris and material from the wound as necessary. This would simply involve including more absorbent material or less absorbent material in the pad as needed. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Ring's pad to include the desired amount of absorption. Such a modification would ensure that the pad absorbed the fluids as required.

Claims 7, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malodobry (US 2004/0111107) in view of Ring et al. (US 4,588,400) as applied to claims 6 and 18 above, and further in view of Garitano et al. (US 2004/0158296).

Malodobry and Ring disclose the invention substantially as claimed as stated above. They do not disclose performing the suction of the pigments from said punctured skin with the suction means prior to the bandaging of the punctured skin and during the puncturing of said skin. Garitano teaches the suction of a solution provided for the removal of tattoos. Performing this step during the puncturing step would have been obvious to a person having ordinary skill in the art because prior to this step, there is no fluid to be suctioned. Also, performing this step prior to bandaging would have been obvious because after bandaging, the suction step would not be easily performed. Furthermore, the Examiner notes that no specific advantage was provided for the ordering of these steps so it is considered within the purview of one having ordinary skill in the art to rearrange the order of steps (see MPEP 2144.04 IV C). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Malodobry and Ring's removal steps to include Garitano's suction step. Such a modification would draw fluid from the tattoo to further aid in the removal of the pigments.

Response to Arguments

Applicant's arguments filed 01/18/2008 have been fully considered but they are not persuasive.

The Examiner has reviewed the Applicant's arguments and the filed Affidavits. Yariv Siman-Tov's comments were considered, but there are still issues regarding the current claims and Simon-Tov's declaration. The experimentation included Salicylic

acid application. The affidavit does not state whether this acid was also used with the regular pads. Without knowing this, it is unclear if this is an additional variable, which may suggest that the pad is not responsible for the migration of the pigments. The "regular pads" should be identified as well. Furthermore, the affidavit suggests that the unique pad was better at removing the tattoo and that ink was not noticed on any of the regular pads although there was a change in the tattoo with the use of the regular pads. The Examiner considers this analysis to be incomplete. Without more than a visual inspection of the regular pads, the change in the tattoo itself would suggest that at least some ink was removed. For these reasons, the Examiner does not consider the affidavit to conclusively differentiate the claimed pad from the prior art. At this point, the Examiner points out that the components of the unique pad have not been claimed. This is apparently where the Applicant considers there to be a patentable distinction over the prior art.

On a separate issue, the Examiner does not know if the pad and its materials "draw" the pigments from the dermal layer. From the Applicant's description, the pad prevents the wound from healing and the body continues to expel the fluids through the wound. This sounds more like "passive" migration. The pad is not, from the Examiner's understanding, directly contacting the pigments. "Active" seems to be the wrong term. Claiming how the materials affect the body may more accurately describe the process.

A statement that the claimed process works better than the prior art does not distinguish the two. The Applicant has failed to show that the application of a pad would not work as claimed. On the contrary, the Applicant has suggested that the prior will

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work, just not as well. Again, using a pad to absorb fluids is not being contested by the Applicant. The contents of that fluid appear to include at least some amount of pigments. The claim needs to include two things that are currently missing. First, the claim should more accurately describe the process by which the pad absorbs the pigments. As explained above, the current language either does not overcome the prior art because the prior art seemingly obtains the same result or might be subject to an enablement rejection. The second addition to the claim that would help overcome the prior art is an inclusion of the material of the pad. The Applicant continues to suggest that the general method is very similar to Malodobry's with the addition of a medicated, absorbent pad. The Examiner is not stating that these changes will necessarily place the application in condition for allowance.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Neal whose telephone number is (571) 272-0625. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TJN

/Todd E Manahan/
Supervisory Patent Examiner, Art Unit 3731